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Senate negotiations on financial reform legislation apparently treat consumer protection as "nice to have." Predatory consumer financial practices were at the heart of the financial crisis and remain a burden on any economic recovery.

Consumer spending will not lead us out of this recession, as it has in past recessions, while consumers are in debt up to their eyeballs.

Business, government and household debt combined have nearly doubled during the past three decades, from 1.4 times our total economy, the gross domestic product, to 2.2 times the GDP in 2006. Household debt increased to 44 percent of that debt, the highest percentage ever. The problem with household debt is not just the amount that families owe but also the terms of that debt. Working- and middle-class families are trapped, losing more and more of their income and life's savings to unconscionable penalties and exploding interest rates.

For consumers, that has meant financial hardship and nights of fitful sleep. But the past 30 years have been very good to the financial industry. Profits in the financial sector went from less than 10 percent of all corporate profits to more than 40 percent, even after the eye-popping bonuses.

How could consumer lending be so profitable? Why have market forces not squeezed the financial industry's profits and costs, including compensation? Why have lenders not offered better terms to consumers to compete for their business? The answer is the hopeless disadvantage that consumers face in any financial transaction. The contracts contain incomprehensible legalese written by lenders' lawyers, filled with traps that consumers are not likely to understand until the traps are sprung.

Ten federal agencies now have dribs and drabs of consumer-protection powers, but consumer protection is an afterthought for all 10, and all have been far too eager to please the financial industry. Effective consumer protection requires an independent agency with the single task of shielding consumers from financial predation and with the powers necessary to quickly learn of new consumer financial practices, to prohibit abuse and to enforce the rules the agency writes.

The House financial reform legislation limited the new agency's power to send its own examiners to smaller banks and credit unions, a compromise I helped write, but protected the agency's power to require existing regulators to examine financial institutions' consumer practices, to receive and act on consumer complaints and to require banks and other lenders to provide information about consumer practices in time to prevent abuse. Subprime mortgage lending exploded in an almost entirely unregulated corner of the financial industry, and regulators learned too late of the damage that subprime mortgages were doing. We cannot let ourselves be blindsided again.

Opponents of a strong independent agency argue that consumer protection duties should be assigned to an existing "safety and soundness" regulator, like the Federal Reserve. No agency of the government has had more power to protect consumers from abusive lending practices than the Fed. The Fed's powers sat unused on the shelf while consumer lending practices went

to hell in a handbasket. Former Fed Governor Frederic Mishkin's testimony to the House Financial Services Committee last year got it right: "The Federal Reserve should relinquish its role as a consumer protection regulator. ... The skills and mind-set required to operate as a consumer-protection regulator are fundamentally different from those required by a systemic regulator."

There is no doubt that there will be new abuses. Many of the practices the financial industry celebrates as "innovation" are just contracts rewritten by industry lawyers to evade existing regulation. The financial industry has the skill to "innovate around" any regulation passed by Congress or regulators. Effective reform requires a motivated, agile agency with the powers necessary to address new abuses promptly.

So can we have a consensus bill on financial reform, including consumer-protection issues? Compromise is possible, but consensus may not be.

The financial industry dresses up its opposition to an independent consumer financial protection agency with philosophical talk of the size and scope of government. It is against Big Government, except when it needs to be bailed out.

That's not what the issue is really about. The issue is all about who wins and who loses.

Removing the traps in consumer financial contracts would activate dormant market forces in consumer lending and result in dramatically lower costs for families and dramatically lower profits and compensation for the financial industry.

The interests of the financial industry and those of working- and middle-class families appear irreconcilable. That doesn't leave much room for consensus.

Congress may just need to pick a side: the financial industry or working- and middle-class families.

Why not put it to a vote?

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